

## KLAYMAN LAW GROUP

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July 6, 2020

**Via ECF**

Hon. Andrew L. Carter, Jr.  
U.S. District Court for the Southern District of New York  
40 Foley Square  
New York, NY 10007

**Re: Moore, et al. v. Cohen, et al., 1:19-cv-4977-ALC**

Dear Judge Carter:

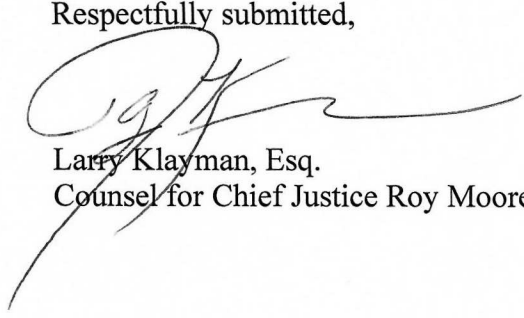
Just hours after Your Honor denied Defendants' motion to dismiss and ordered discovery, their counsel penned an unsolicited letter to the Court. This letter was unnecessary, given that Your Honor's ruling was crystal clear, as shown from the attached transcript of the proceeding, and was apparently crafted for media consumption.

The letter was also presumptively arrogant as in it Defendants' counsel took it upon herself to declare, without any basis at all, that Your Honor ordered discovery only to justify a predetermined dismissal of Plaintiffs' complaint. It then goes on to pressure Your Honor to rule on Defendants other defenses before discovery. Indeed, in Your Honor's oral ruling, you made specific reference to Defendants exercising their right to move for summary judgment at an appropriate time. And the Court did not limit discovery as Defendants' counsel misrepresents, as it provides only that "[i]t seems to me that the bulk of discovery will be related to this agreement (the release) and the corporate relationships discussed." See Attachment – Exhibit 1.

As the letter and the transcript are clear and speak for themselves – and indeed Your Honor asked the parties if they had any questions after you issued your ruling and there were none by Defendants' counsel when you gave both of us this opportunity – Defendants' unsolicited letter should respectfully be stricken from the record as it is only a tactical gambit for public consumption.

Plaintiffs thus move to strike this unsolicited and inaccurate letter from the record.

Respectfully submitted,



Larry Klayman, Esq.

Counsel for Chief Justice Roy Moore and Kayla Moore

Encl: Attached as Exhibit 1 – Court Transcript of July 2, 2020

# EXHIBIT 1

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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 ROY STEWART MOORE and KAYLA  
4 MOORE,

Plaintiffs,

New York, N.Y.

5 v.

19 Civ. 4977 (ALC)

6 SACHA NOAM BARON COHEN,  
7 SHOWTIME, INC., AND CBS  
8 CORPORATION,

Defendants.

9 -----x

Teleconference

Decision

10 July 2, 2020  
11 10:00 a.m.

12 Before:

13 HON. ANDREW L. CARTER, JR.,

14 District Judge

15 APPEARANCES

16 KLAYMAN LAW GROUP, P.A.  
17 Attorneys for Plaintiffs  
18 BY: LARRY E. KLAYMAN

19 DAVIS WRIGHT TREMAINE LLP  
20 Attorneys for Defendants  
21 BY: ELIZABETH A. McNAMARA  
22 RACHEL STROM  
23

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(Case called)

THE DEPUTY CLERK: Counsel, please state your appearance for the plaintiff.

MR. KLAYMAN: Larry Klayman for plaintiffs Chief Justice Roy Moore and his wife, Kayla.

THE DEPUTY CLERK: And for the defendants.

MS. McNAMARA: Elizabeth McNamara and Rachel Strom for the defendants Sacha Baron Cohen, Showtime, and CBS.

THE DEPUTY CLERK: Thank you.

THE COURT: Okay. Good morning. I hope everyone is safe and healthy.

I am going to rule orally on the motion to dismiss, and then I will find out how counsel wish to proceed.

I have reviewed the parties' original motion to dismiss briefings and supplemental submissions.

One issue the parties discussed in briefing is whether defendants are able to enforce the standard consent agreement. The only signatories to the agreement are Yerushalayim TV and Roy Moore. By its terms, the agreement provides that Yerushalayim TV includes its assigns, licensees, parents, subsidiaries, and affiliates. The agreement further provides that Roy Moore waives and agrees not to bring at any time in the future any claims, including a list of enumerated claims, against the producer or against any of the assignees or licensees or anyone associated with the program which are

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1 related to the program or its production or this agreement.

2 Whether defendants are encompassed by these terms is  
3 dependent on their relationship to Yerushalayim TV. In their  
4 motion to dismiss and supplemental briefings, defendants  
5 explain their connection to Yerushalayim TV as follows:

6 Yerushalayim TV is a limited liability company  
7 organized in Wyoming and owned by Sacha Baron Cohen.

8 Yerushalayim TV is a wholly owned subsidiary of the  
9 production company La Quinta Entertainment, LLC.

10 La Quinta owns the television program "Who is  
11 America?" jointly with another production company, Please You  
12 Can Touch, LLC.

13 La Quinta and Please You Can Touch licensed "Who is  
14 America?" to Showtime Networks, Incorporated.

15 However, none of this information appears in  
16 plaintiffs' complaint. In fact, in their complaint, plaintiffs  
17 allege that Yerushalayim TV does not actually exist. Although  
18 based on the fact that Showtime produced Cohen's "Who is  
19 America?" program, including the episode at issue, it seems  
20 likely that defendants are at least associated with the  
21 program, that is not a fact I can assume at this phase of the  
22 litigation. It also is not enough to allow me to determine  
23 whether defendants can enforce the contract to which only  
24 Yerushalayim TV and Judge Moore were signatories.

25 At the motion to dismiss stage, I cannot consider

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1 facts outside the scope of the complaint. I also must draw all  
2 reasonable inferences in plaintiffs' favor. See *Santos v.*  
3 *Medina*, 417 F.Supp.3d 280, 285 (S.D.N.Y. 2019). At this stage,  
4 I cannot resolve the factual issue of defendants' relationships  
5 to Yerushalayim TV and thus the applicability and impact of the  
6 consent agreement on the Moores' claims.

7 Based on this analysis, I deny defendants' motion to  
8 dismiss.

9 I think it makes sense to give the parties a chance to  
10 discuss the scope of discovery going forward. We should be  
11 able to move to summary judgment fairly quickly. It seems to  
12 me that the bulk of discovery will be related to this agreement  
13 and the corporate relationships discussed, but I think at this  
14 point it makes sense to give the parties a chance to meet and  
15 confer and give me a joint status report regarding the scope of  
16 discovery and a timetable for discovery. I would propose that  
17 the parties give me that two weeks from today, July 16.

18 That's a lot to digest. Let me see what counsel's  
19 thoughts are on that, starting with counsel for the plaintiff.

20 MR. KLAYMAN: I think that's a very good suggestion,  
21 your Honor. We agree with that schedule.

22 THE COURT: Okay.

23 Defense counsel.

24 MS. McNAMARA: And, your Honor, we are fine with  
25 that -- your Honor, this is Elizabeth McNamara speaking. We

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1 are fine with that schedule, as well.

2 THE COURT: Okay.

3 All right. So, again, the motion to dismiss is  
4 denied. We will have the parties give me a joint status report  
5 on July 16 regarding the scope of discovery and a timeline.

6 Anything else from plaintiffs' counsel today?

7 MR. KLAYMAN: Not at this time, your Honor. Thank  
8 you.

9 THE COURT: Okay. Anything else from defense counsel  
10 today?

11 MS. McNAMARA: No, your Honor. Thank you very much.

12 THE COURT: Okay. Thank you. Please stay safe. We  
13 are adjourned.

14 oOo